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STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

Application 6296 Permit 3314 License 1723

CORRECTION OF ORDER DATED NOVEMBER 21, 1999

WHEREAS:

- 1) By Division of Water Rights order dated November 21, 1999, License 1723 was amended to include two authorized points of diversion and several additional license conditions. With one exception, the license conditions were agreed to by the licensee as a means of resolving protests or were added or amended to reflect language presently used in the SWRCB's standard water right permit and license conditions.
- 2) Although there are instances in which approval of a change petition may appropriately be conditioned upon establishing a new priority for the affected permit or license in order to protect other legal users of water, there is no basis in the record for changing the priority of right for diversions under License 1723.
- 3) Due to an obvious administrative oversight, the November 21, 1999, order erroneously included a new license condition that would have revised the priority of all diversions made at the new point of diversion authorized by that order.

NOW, THEREFORE IT IS ORDERED THAT:

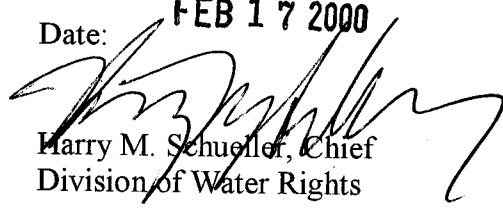
- 1) The following condition is deleted from License 1723:

"The right under this License for use of water at POD #2 shall be junior to all rights issued prior to May 2, 1998 within the watershed."

- 2) All other amendments to License 1723 specified in the Division of Water Rights order dated November 21, 1999, shall remain in the license and are not affected by this order.

Date:

FEB 17 2000


Harry M. Schueller, Chief
Division of Water Rights

**STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD**

DIVISION OF WATER RIGHTS

ORDER

Application 6296 Permit 3314 License 1723

**ORDER APPROVING ADDITION OF A POINT OF DIVERSION
AND AMENDING THE LICENSE**

WHEREAS:

1. License 1723 was issued to The Board of Trustees of the Leland Stanford Jr. University, of Stanford University on April 7, 1937.
2. A petition to add an additional point of diversion was filed with the State Water Resources Control Board (SWRCB) on May 20, 1998.
3. On July 16, 1998, public notice of the petition was released and protests were received. Terms and conditions resolving the protests were developed. By letter of September 23, 1999, the parties were advised that the protests would be dismissed, with the understanding that any order issued approving the proposed change would incorporate the protest resolution terms and conditions, if further objections were not received by October 27, 1999. No objections to the licensing conditions were received.
4. The SWRCB has determined that the petition to add an additional point of diversion, with the incorporation of the protest dismissal terms and conditions does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
5. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A term should be placed in the license making the licensee aware of possible obligations resulting from these acts.
6. The license terms relating to the continuing authority and water quality objectives of the SWRCB should be updated to conform to section 780, Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

License 6296 is amended as follows:

The points of diversion (POD) of such water are described as follows:

- POD # 1. North 326,400 and East 1,509,000, by California Coordinate System in Zone 3. Being within the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Projected Section 28, T6S, R 3W, MDB&M.
- POD # 2. North 340,000 and East 1,510,100, by California Coordinate System in Zone 3. Being within the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Projected Section 9, T6S, R 3W, MDB&M.

A priority condition shall be added to the license that reads as follows:

The right acquired under this license for use of water at POD # 2 shall be junior to all rights issued prior to May 2, 1998 within the watershed.

The following protest dismissal conditions shall be added to the license:

The total quantity of water diverted to offstream storage under this license from the Los Trancos Creek Felt Lake Diversion Dam and the San Francisquito Creek Felt Lake Water Collection Facility shall not exceed 900 acre feet (af), and the combined instantaneous rate of diversion, from both points of diversion, shall not exceed 40 cubic feet per second (cfs).

The maximum rate of diversion to offstream storage from the San Francisquito Creek Felt Lake Water Collection Facility, under this license, shall not exceed the calculated value of the real time rate of flow bypassed into Lower Los Trancos Creek at the Los Trancos Creek Felt Lake Diversion Dam, minus 0.10 cfs.

Licensee shall install, operate and maintain flow-measuring devices, satisfactory to the SWRCB, for the purpose of making real time measurements of:

- (a) The instantaneous rate of flow (cfs) in Los Trancos Creek at a point approximately 150 feet upstream of the Los Trancos Creek Felt Lake Diversion Flume,
- (b) The instantaneous rate (cfs) and quantity (af) of water diverted into the Los Trancos Felt Lake Diversion Flume,
- (c) The instantaneous rate (cfs) and quantity (af) of water diverted at the San Francisquito Creek Felt Lake Water Collection Facility.

Using the records from these flow-measuring devices, Licensee shall develop and carry out a flow-monitoring program specifically designed to demonstrate full compliance with the flow and diversion rate conditions of this license. All data collected under the flow-monitoring program shall be made available to the SWRCB upon request by the Chief, Division of Water Rights.

By August 1 of each year, Licensee shall submit to the Chief, Division of Water Rights, a summary report of the flow monitoring program conducted over the previous diversion season. The report shall provide a summary of the flow data collected in a manner that clearly demonstrates whether or not the flow and diversion rate conditions of this License were met. If any of the conditions were not met, Licensee shall identify the reasons for noncompliance and provide a discussion of corrective measures Licensee intends to undertake to achieve full compliance in the future. A copy of all annual summary reports shall be made available for public review at the Green Library on the Stanford University campus.

No water shall be diverted at the San Francisquito Creek Felt Lake Water Collection Facility under this license until Licensee provides evidence to the SWRCB that the measuring devices required by this license are installed and operational. Evidence shall include properly labeled photographs showing completed installation of the required facilities.

The continuing authority condition, shall be updated to read as follows:

Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph

unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust

(0000012)

The water quality objectives condition, shall be updated to read as follows:

The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

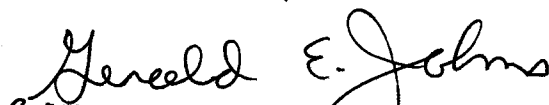
(0000013)

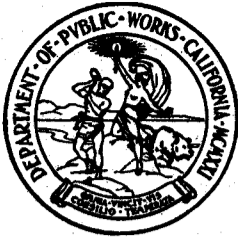
License 6296 is amended to include the following Endangered Species condition:

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 5131 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain an incidental take permit prior to construction or operation. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

(0000014)

Dated: 11/21/1999


Gerald E. Johns
Harry M. Schueller, Chief
Division of Water Rights



STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES

License for Diversion and Use of Water

LICENSE 1723

PERMIT 3314

APPLICATION 6226

THIS IS TO CERTIFY, That The Board of Trustees of The Leland Stanford Junior

University of Stanford University, Calif. has made proof to the satisfaction of the Division of Water Resources of California of a right to the use of the waters of **Los Trancos Creek in Santa Clara County**

tributary of **San Francisco Bay via San Francisquito Creek**

for the purpose of **irrigation and domestic uses**

under Permit **3314** of the Division of Water Resources and that said right to the use of said waters has been perfected in accordance with the laws of California, the rules and regulations of the Division of Water Resources and the terms of the said permit; that the priority of the right herein confirmed dates from **May 22, 1929;**

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed **nine hundred (900) acre feet per annum** by storage to be collected from about December 1st to about May 1st of each season at a maximum rate of **forty (40) cubic feet per second.**

to storage

The point of diversion of such water is located **South five degrees West (S. 5° W.) twelve thousand one hundred forty-four (12144) feet from the most westerly corner of Rancho Rincon de San Francisquito and being also North twenty-four degrees thirty minutes West (N. 24° 30' W.) fourteen thousand seven hundred eighty-four (14784) feet from the southeast corner of Section 3, T 7 S, R 3 W, M.D.B.&M. and being within the SW¼ of NE¼ of projected Section 28, T 6 S, R 3 W, M.D.B.&M.**

A description of the lands or the place where such water is put to beneficial use is as follows:

8246 acres located on The Campus and adjacent property of The Leland Stanford Junior University as shown on the map entitled "Map of the Lands of the Leland Stanford Junior University" dated May 24, 1929, filed with the Division of Water Resources on June 7, 1929.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Division of Water Resources.

The right to the diversion and use of the water aforesaid hereby confirmed is restricted to the point of diversion herein specified and to the lands or place of use herein described.

This license is granted and said appropriator takes all rights herein mentioned subject to the terms and conditions set forth in Section 20 of Chapter 586, Statutes 1913, which is as follows:

Sec. 20. All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such time as the water actually appropriated under such permits and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated, but no longer; and every such permit or license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this section and likewise the statement that any appropriator of water, to whom said permit or license may be issued, shall take the same subject to such conditions as therein expressed; *provided*, that if, at any time after the expiration of twenty years after the granting of a license, the state, or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the state shall have the right to purchase the works and property occupied and used under said license and the works built or constructed for the enjoyment of the rights granted under said license; and in the event that the said state, city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state so desiring to purchase and the said owner of said works and property can not agree upon said purchase price, said price shall be determined in such manner as is now or may hereafter be determined in eminent domain proceedings. If it shall appear to the state water commission at any time after a permit or license is issued as in this act provided that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has not put the water granted under said permit or license to the useful or beneficial purpose for which the permit or license was granted, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has ceased to put said water to such useful or beneficial purpose, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee has failed to observe any of the terms and conditions in the permit or license as issued, then and in that case the said commission, after due notice to the permittee, licensee, or the heirs, successors or assigns of such permittee or licensee, and a hearing thereon, may revoke said permit or license, and declare the water to be unappropriated and open to further appropriation in accordance with the terms of this act. And the findings and declaration of said commission shall be deemed to be prima facie correct until modified or set aside by a court of competent jurisdiction; *provided*, that any action brought so to modify or set aside such finding or declaration must be commenced within thirty days after the service of notice of said revocation on said permittee or licensee, his heirs, successors or assigns. And every licensee or permittee under the provisions of this act if he accepts such permit or license shall accept the same under the conditions precedent that no value whatsoever in excess of the actual amount paid to the state therefor shall at any time be assigned to or claimed for any permit or license granted or issued under the provisions of this act, or for any rights granted or acquired under the provisions of this act, in respect to the regulations by any competent public authority of the services or the price of the services to be rendered by any permittee or licensee, his heirs, successors or assigns or by the holder of any rights granted or acquired under the provisions of this act, or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the state or any city, city and county, municipal water district, irrigation district, lighting district or any political subdivision of the state, of the rights and property of any permittee or licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this act. The application for a permit by municipalities for the use of water for said municipalities or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether they are first in time; *provided, however*, that such application for a permit or the granting thereafter of permission to any municipality to appropriate waters, shall not authorize the appropriation of any water for other than municipal purposes; and *providing, further*, that where permission to appropriate is granted by the state water commission to any municipality for any quantity of water in excess of the existing municipal needs therefor, that pending the application of the entire appropriation permitted, the state water commission shall have the power to issue permits for the temporary appropriation of the excess of such permitted appropriation over and above the quantity being applied from time to time by such municipality; and *provided, further*, that in lieu of the granting of such temporary permits for appropriation, the state water commission may authorize such municipality to become as to such surplus a public utility, subject to the jurisdiction and control of the railroad commission of the State of California for such period or periods from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted; and *provided, further*, that when such municipality shall desire to use the additional waters granted in its said application it may do so upon making just compensation for the facilities for taking, conveying and storing such additional water rendered valueless for said purposes, to the person, firm or corporation which constructed said facilities for the temporary use of said excess waters, and which compensation, if not agreed upon between the municipality and said person, firm or corporation, may be determined in the manner provided by law for determining the value of property taken by and through eminent domain proceedings.

Witness my hand and the seal of the Department of Public

Works of the State of California, this **seventh**
day of **April**, 19**37**.

EDWARD HYATT
State Engineer

By Harold Conkling
Deputy

[SEAL]



LICENSE 1723

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS

DIVISION OF WATER RESOURCES

LICENSE
TO APPROPRIATE WATER

The Board of Trustees of The
ISSUED TO Leland Stanford Junior University

DATED April 7, 1937